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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,324	07/05/2001	Ramesh Keshavaraj	3043A	2602

7590 01/05/2004

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EXAMINER

LUBY, MATTHEW D

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,324

Applicant(s)

KESHA VARAJ, RAMESH

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-18, 20-22 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18, 22 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-12, 20 and 21 drawn to an invention nonelected without traverse in Paper No. 5. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 15, 17, 18, 22, 25 and 26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,086,095 in view of Bunker et al.

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4. Claims 1-3 of 6,086,095 recite all of the claimed limitations except that the airbag cushion to has at least two fabric components, having an offset created by closing a slit, notch or opening with a seam

5. Bunker et al. disclose that it is well known for an airbag cushion to have at least two fabric components, having an offset created by closing a slit, notch or opening with a seam (col. 4, line 63 - col. 5, line 11 and Figure 6) in order to retain the airbag cushion against the inflator (col. 4, lines 63-66).

6. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an offset created by closing a slit, notch or opening with a seam on the 6,086,095 airbag cushion, as taught by Bunker et al., in order to retain the airbag cushion against the inflator.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 15, 17, 18, 22, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krickl (U.S. Patent 5,454,594) in view of Bunker et al.

9. Krickl discloses an airbag cushion (10) in a vehicle restraint system (lines 1-2 of the abstract) having at least two fabric components (14, 16). In column 1, lines 51-55 and column 2, lines 43-46, Krickl discloses the desire to minimize the amount of fabric

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used to make the bag. Even if weight were given to the effective fabric usage factor, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Krickl to have a fabric usage factor of less than about 0.03 in view of Krickl's teaching of not wasting fabric (which would minimize the amount of fabric utilized to make the bag per volume of bag) and in view of case law (In re Aller, 105 USPQ 233, CCPA, 1955) that changes in properties of a product are not patentable unless a new and unexpected result different in kind and not merely degree results of the prior art is achieved. As the fabric usage factor and the limitation that the airbag cushion is made by connecting the panels with substantially straight seams (claim 18) involves the amount of material used to make the bag and the method for attaching the panels, these are not structurally defining limitations in an article claim (i.e., how the bag is made or the amount of material used in making the bag is not patentably distinguishing in an article claim such as this; see MPEP section 2113).

10. Krickl does not disclose that the airbag cushion to has at least two fabric components having an offset created by closing a slit, notch or opening with a seam

11. Bunker et al. disclose that it is well known for an airbag cushion to have at least two fabric components, having an offset created by closing a slit, notch or opening with a seam (col. 4, line 63 - col. 5, line 11 and Figure 6) in order to retain the airbag cushion against the inflator (col. 4, lines 63-66).

12. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an airbag cushion having at least two fabric components having an offset created by closing a slit, notch or opening with a seam on the at least two fabric

components of the airbag cushion of Krickl, as taught by Bunker et al., in order to retain the airbag cushion against the inflator.

13. Claims 16 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krickl in view of Bunker et al. as applied to claim 15 above, and further in view of Nelsen et al. (U.S. Patent 5,533,755).

14. The modified Krickl invention discloses all of Applicant's claimed limitation except a fabric weight factor of 8.0 or less.

15. Nelsen et al. disclose at column 6, lines 30-40 the use of a lightweight airbag cushion in a vehicle restraint system, as well as using a denier of at least 315 (420 at column 9, lines 45-55) to ultimately lighten the weight of the vehicle (an inherent benefit).

16. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Krickl to include a lightweight or low effective fabric weight bag, as taught by Nelsen et al., in order to ultimately lighten the weight of the vehicle. The effective fabric weight as defined in the specification is an obvious matter of design choice, as the specification gives no particular purpose or stated reason for the exact factors recited in claims 16 and 27, and the invention would appear to work equally well with similar weight factors. Case law has held that "even though applicant's modification results in great improvement and utility over the prior art, it still may not be patentable if the modification was within the capabilities of one skilled in the art" and "it is not inventive to discover the optimum or workable ranges by routine experimentation" (In re Aller, 105 USPQ 233).

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby
Examiner
Art Unit 3611



M.I.
December 26, 2003



DANIEL G. DePUMPO
PRIMARY EXAMINER